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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,398	01/05/2004	Christopher N. Gab	3172 PUS	3585

7590 10/27/2005

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4010 E. 26th Street  
Los Angeles, CA 90023

EXAMINER
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AYRES, TIMOTHY MICHAEL

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 10/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/752,398

Applicant(s)

GAB, CHRISTOPHER N.

Examiner

Timothy M. Ayres

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/7/05, 8/8/05</u>  | 6) <input type="checkbox"/> Other: ____                                     |

### **DETAILED ACTION**

This is a first office action on the merits of application SN 10/752,398.

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1 and 8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The projection (34) extends outwardly from the corner edges only, so the language recited in the last two lines of claim 1 and lines 3 and 4 on claim 8 has no support in the specification.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

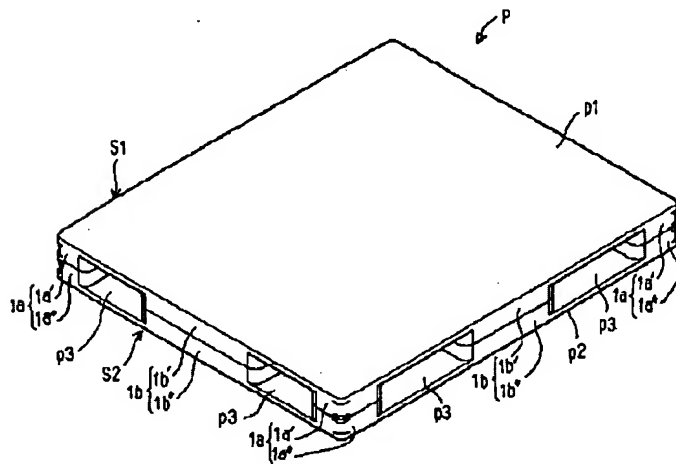
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

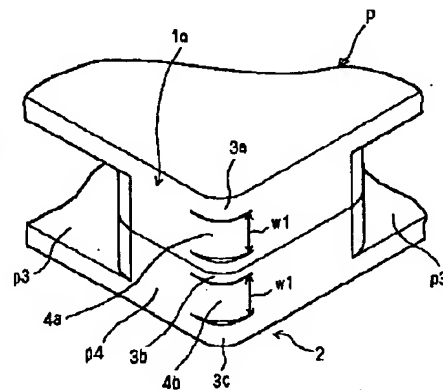
4. Claims 1,3-6, and 8-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent 2001-270,525 to Ishizuka Glass. Ishizuka '525 discloses a pallet

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(P) with a deck having an upper surface (p1) for supporting goods (A) as seen in figures 1 and 5. The upper surface (p1) is substantially bounded outwardly by side edges, end edges and corner edges between the side edges and end edges as seen in figure 1. A plurality of supports (1a, 1b) extends downward from the deck. At least one projection (3a) extends outward from the rounded corner edge as seen in figure 6.

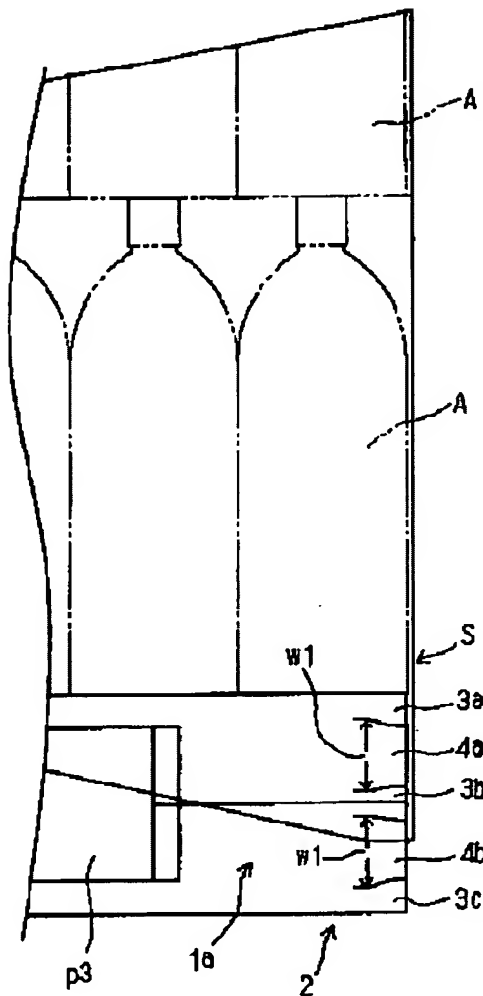


Ishizuka '525 Figure 1

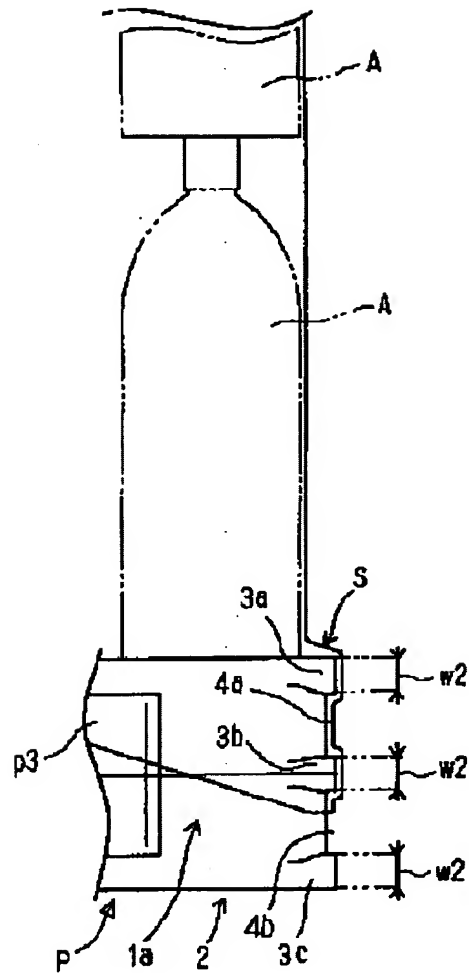


Ishizuka '525 Figure 6

5. The upper surface of the projection (3a) is flush with the upper surface (p1) of the deck as seen in figure 4. The plurality of goods (A) on the upper surface (p1) is wrapped with a wrap (S) to at least partially go around an edge adjacent to the projection (3a) as seen in figures 3 and 5. The projection (3a) does not extend outwardly past the side edges or past the end edges as seen in figure 3.



Ishizuka '525 Figure 3

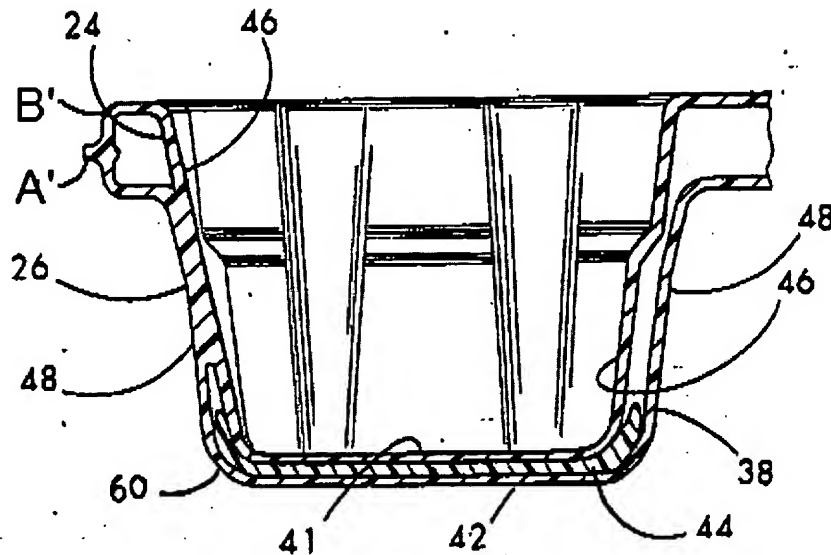


Ishizuka '525 Figure 4

6. Claims 1-3 and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,046,434 to Breezer. Breezer '434 discloses a pallet (20) with a deck (22) formed from an upper panel (24) and a lower panel (26). The upper panel (22) makes up an upper surface and has a plurality of openings (50). The lower panel (26) extends the plurality of supports (38) as seen in figure 6 below so that each support (38) aligns

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with an opening (50) (Col. 3, line 37-39). The pallet (20) is a nestable pallet (Col. 3, line 42-52). A projection (A') extends outwardly from the edges (B') of the deck (22). The corners (40) of the pallet (20) are rounded as seen in figure 1.



Breezer '434 Figure 6

### **Conclusion**

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 5,813,355 to Brown discloses a pallet with a two panel upper deck and that is nestable. U.S. Patent 3,951,078 to Fowler discloses a pallet with projections in the corners. U.S. Patent 4,046,347 to Bryan discloses a pallet with a plurality of projections along the side and end edges. Japanese Patent 10-258,838 to Matsumoto et al. discloses a pallet with four projections in the corners. U.S. Patent 2,705,120 to Owen discloses projections on the side edges of the pallet. U.S.

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Patent 4,690360 to Looker discloses projections along the side and end edges of the pallet.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-FRI 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TMA  
10/24/05



LANNA MAI  
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